

presentation as the Office may permit or direct.

[54 FR 49457, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995]

#### § 512.6 Obstruction of the proceedings.

The designated representative shall report to the Office any instances where any witness or counsel has engaged in dilatory, obstructionist, or contumacious conduct or has otherwise violated any provision of this part during the course of an investigative proceeding or formal examination proceeding; and the Office may take such action as the circumstances warrant, including the exclusion of counsel from further participation in such proceeding.

#### § 512.7 Subpoenas.

(a) *Service.* Service of a subpoena in connection with any investigative proceeding or formal examination proceeding shall be effected in the following manner:

(1) *Service upon a natural person.* Service of a subpoena upon a natural person may be effected by handing it to such person; by leaving it at his office with the person in charge thereof, or, if there is no one in charge, by leaving it in a conspicuous place therein; by leaving it at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; by mailing it to him by registered or certified mail or by an express delivery service at his last known address; or by any method whereby actual notice is given to him.

(2) *Service upon other persons.* When the person to be served is not a natural person, service of the subpoena may be effected by handing the subpoena to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; by mailing it to any such representative by registered or certified mail or by an express delivery service at his last known address; or by any method whereby actual notice is given to such person.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the Chief Counsel or

his designee to quash or modify such subpoena, accompanying such application with a statement of the reasons therefor. The Chief Counsel or his designee, as appropriate, may:

- (1) Deny the application;
- (2) Quash or revoke the subpoena;
- (3) Modify the subpoena; or
- (4) Condition the granting of the application on such terms as the Chief Counsel or his designee determines to be just, reasonable, and proper.

(c) *Attendance of witnesses.* Subpoenas issued in connection with an investigative proceeding or formal examination proceeding may require the attendance and/or testimony of witnesses from any State or territory of the United States and the production by such witnesses of documentary or other tangible evidence at any designated place where the proceeding is being (or is to be) conducted. Foreign nationals are subject to such subpoenas if such service is made upon a duly authorized agent located in the United States.

(d) *Witness fees and mileage.* Witnesses summoned in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Such fees and mileage need not be tendered when the subpoena is issued on behalf of the Office by any of its designated representatives.

[54 FR 49457, Nov. 30, 1989, as amended at 56 FR 38317, Aug. 12, 1991]

## PART 513—PRACTICE BEFORE THE OFFICE

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1813, 1831m, and 15 U.S.C. 78.

SOURCE: 54 FR 49459, Nov. 30, 1989, unless otherwise noted.

## § 513.1

## 12 CFR Ch. V (1–1–08 Edition)

### § 513.1 Scope of part.

This part prescribes rules with regard to general practice before the Office on one's own behalf or in a representative capacity and prescribes rules describing the circumstances under which attorneys, accountants, appraisers, or other persons may be suspended or debarred, either temporarily or permanently, from practicing before the Office. In connection with any particular matter, reference also should be made to any special requirements of procedure and practice that may be contained in the particular statute involved or the rules and forms adopted by the Office thereunder, which special requirements are controlling. In addition to any suspension hereunder, a person may be excluded from further participation under this chapter from a rulemaking hearing in accordance with § 510.2, from an adjudicatory proceeding in accordance with § 509.6(a)(1), from a removal hearing in accordance with § 508.3, or from an investigatory proceeding in accordance with § 512.5(b)(2) of this chapter.

[54 FR 49459, Nov. 30, 1989, as amended at 56 FR 38317, Aug. 12, 1991]

### § 513.2 Definitions.

As used in this part:

- (a) *Office* means the Office;
- (b) The term *Secretary* means the Secretary and any Assistant or Acting Secretary to the Office;
- (c) The term *presiding officer* includes the Office, his delegatee or an administrative law judge appointed under section 3105 or detailed pursuant to section 3344 of title 5 of the U.S. Code and, as used in this part, the term shall be construed to refer to whichever of the above-identified individuals presides at a hearing or other proceeding, except as otherwise specified in the text;
- (d) The term *attorney* means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia; and
- (e) The term *practice* means transacting any business with the Office, including:
  - (1) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding con-

ducted before the Office, a presiding officer or the Office's staff, including those proceedings covered in parts 508, 509, 510, and 512 of this chapter;

(2) The preparation of any statement, opinion, financial statement, appraisal report, audit report, or other document or report by any attorney, accountant, appraiser or other licensed expert which is filed with or submitted to the Office, with such expert's consent or knowledge in connection with any application or other filing with the Office;

(3) A presentation to the Office, a presiding officer or the Office's staff at a conference or meeting relating to an association's or other person's rights, privileges or liabilities under the laws administered by the Office and rules and regulations promulgated thereunder;

(4) Any business correspondence or communication with the Office, a presiding officer or the Office's staff; and

(5) The transaction of any other formal business with the Office on behalf of another, in the capacity of an attorney, accountant, appraiser or other licensed expert.

### § 513.3 Who may practice.

(a) *By non-attorneys.* (1) An individual may appear on his own behalf (*pro se*); a member of a partnership may represent the partnership; a bona fide and duly authorized officer of a corporation, trust or association may represent the corporation, trust or association; and an officer or employee of a commission, department or political subdivision may represent that commission, department or political subdivision before the Office.

(2) Any accountant, appraiser or other licensed expert may practice before the Office in a professional capacity.

(b) *By attorneys.* Any association or other person may be represented in any proceeding or other matter before the Office by an attorney.

(c) Any licensed expert or professional transacting business with the Office in a representative capacity may be required to show his authority to act in such capacity.